

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE SEPTEMBER 11TH LITIGATION

: PROPOSED CASE
 : MANAGEMENT ORDER
 : AND PLAN
 :
 : 21 MC 100 (AKH)

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ALVIN K. HELLERSTEIN, U.S.D.J.:

The protocol outlined below, and supplemented in the attached chart, is the Proposed Case Management Order and Plan for onward progression of these cases towards final resolution. The Court has considered recommendations from the parties and the Special Masters and will hear arguments at the December 10, 2008 Status Conference.

1. Divide the aggregate number of plaintiffs into five groups.
 - A. Group A: Cases with case index numbers 1 – 2000
 - B. Group B: Cases with case index numbers 2001 – 4000
 - C. Group C: Cases with case index numbers 4001 – 6000
 - D. Group D: Cases with case index numbers 6001 – 8000
 - E. Group E: Cases with case index numbers 8001 – (last index #)
2. Forty days after this process is put in motion, the parties must deliver to the Special Masters responses, under oaths of plaintiffs and defendants, for Group A, in index number sequence, fully and truthfully answering the following 35 data entry points (“Severity Chart Plus”) from the November 26, 2008 Discovery Database.
 - A. Case profile information (data entry points 2 – 6)
 - B. Duration of exposure at World Trade Center site (data entry points 72 – 81)
 - C. Plaintiff’s pre-existing disorders (data entry points 108 – 114)
 - D. Severity of claimed illnesses (data entry points 201 – 212)
 - E. Conditions, injuries, and diseases for which plaintiff seeks recovery (data entry point 131)
 - i. NOTE: Point 131’s wording has been altered slightly from the November 26, 2008 Discovery Database. It now reads: “For which diagnosed condition(s), injury(s), disease(s) does PE seek recovery?”

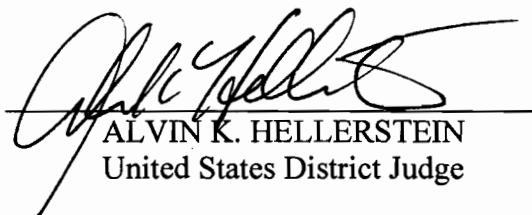
3. Within ten days, the Special Masters shall identify:
 - A. Group A1: 200 severe cases in Group A
 - B. Group A2: 25 cases selected randomly from the remainder of Group A
 - C. Group A3: 400 additional cases selected randomly from the remainder of Group A
 - D. Group A4: All remaining cases within Group A
4. Five days later, plaintiffs' Liason Counsel and defendants' Liason Counsel shall each identify two Group A1 cases for discovery and trial.
 - A. Discovery will commence promptly and will be permitted on all issues relevant for discovery and trial, including information disclosed in response to database queries.
 - B. The discovery completion date, the final date for filing motions, the date upon which parties will argue motions, and the trial date appear in the attached chart.
 - C. Note: The Court chose to vary the Groups' motion practice schedules and to set common trial dates based on the assumption that much of discovery and motion practice for later-sequenced cases is likely to cover the same ground.
5. Within forty days after the Special Masters make the identification in "Step 3," the parties shall populate the entire Database for Groups A1 and A2, fully and truthfully answering, under oaths of plaintiffs and responding defendants, the answers each give.
6. Five days later, the Special Masters will select two additional Group A1 or Group A2 cases for discovery and trial. These two cases will also proceed through discovery and trial as set out in "Step 4."
7. Eighty days after database completion is required for Groups A1 and A2, entire Database completion is due for Group A3.
8. The protocol in Steps 2 through 7 shall be accomplished for Groups B through E. Each Group will begin this process 40 days after the previous Group begins.
9. The entire Database will be completed for Groups A4, B4, C4, D4, and E4 on or before January 1, 2011.
10. Pending adoption, this process will commence (and "Day 1" for purposes of the attached chart will be) January 1, 2009. Weekends and legal holidays are included even when set time periods are brief.
11. If a case chosen to proceed with discovery and trial settles prior to trial, the party that originally selected that case (plaintiffs, defendants, or the Special Masters) may choose another case from the first subgroup of the settled case's Group to go into that settled case's track for discovery and trial.

Because disagreements remain regarding some of the "pick lists" in fields 6, 109, 131, 202, 205, 208 and 212, parties shall arrange a conference with the Special Masters in which they may settle these disputes. Any disagreements that persist should be brought to the Court for resolution during the December 10, 2008 conference.

The Court further orders the defendants to produce a map of the World Trade Center site, showing the contractors relating to the particular sites on which they performed services, their insurance coverage, and the period when they performed services. Annexes should show the insurance agreements, limitations and exclusions. If disclosures are not made because of objections, notwithstanding earlier rulings by the Court, the objections should be stated at the December 10, 2008 conference so the Court can rule on them formally.

SO ORDERED.

Date: December 2, 2008
New York, New York



ALVIN K. HELLERSTEIN
United States District Judge

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| | | | | | Completed Database for 400 additional cases selected at random | | | | | |
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| Special Masters have determined 200 most severe cases (D1); selected a set of 25 additional cases at random (D2); selected a set of 400 additional cases at random (D3). Remaining cases are in Group D4. | Each Party has chosen 2 cases for discovery and trial. Discovery to start promptly. | Completed Database on D1 | | | | | | | | |
| | | | | Court has identified 2 more cases from D1 for discovery and trial. Discovery to start promptly. | | | | | | |
| | Completed Database on D2 | | | | | | | | | |
| | | | | | | | Completed Database for 400 additional cases selected at random | | | |
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| Severity Chart Plus Finished For Group E | Special Masters have determined 200 most severe cases (E1); selected a set of 25 additional cases at random (E2); selected a set of 400 additional cases at random (E3). Remaining cases are in Group E4. | Each Party has chosen 2 cases for discovery and trial. Discovery to start promptly. | Completed Database on E1 | | | | | | | |
| | | | | Court has identified 2 more cases from E1 for discovery and trial. Discovery to start promptly. | | | | | | |
| | | | | Completed Database on E2 | | | | | | |
| | | | | | | | | Completed Database for 400 additional cases selected at random | | |
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